

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

HOWARD J. MILLER, II,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. CV420-162
)	
SANTANDER CONSUMER USA INC.,)	
)	
Defendant.)	
_____)	

O R D E R


Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 11), to which plaintiff has filed objections (Doc. 13). Plaintiff objects to the report and recommendation on the grounds that Defendant's removal of this matter from the Magistrate Court of Chatham County, Georgia, was untimely. (Doc. 13 at 3-4.) After a careful de novo review of the record, the Court **OVERRULES** Plaintiff's objections and **ADOPTS** the Report and Recommendation (Doc. 13) as the Court's opinion in this case.

As an initial matter, Defendant timely filed its notice of removal in this Court. Under 28 U.S.C. § 1446(b)(2)(B), a defendant has "30 days after receipt by or service on that defendant of the initial pleading or summons . . . to file the notice of removal." Defendant was served with the Summons and Complaint on June 22, 2020. (Doc. 1, Attach. 2 at 6.) Defendant filed the notice of

removal in this Court on July 22, 2020, thirty days after Defendant was served. (Doc. 1.)

Additionally, Plaintiff's objections do not include an explanation for his failure to timely respond to Defendant's motion to dismiss or for his failure to otherwise prosecute this case. Although Plaintiff filed an untimely response to Defendant's motion to dismiss, his response only argues that Defendant's notice of removal was untimely. (Doc. 12.) Without more, the Court cannot construe Plaintiff's response as an opposition to Defendant's motion to dismiss. As a result, Defendants' Motion to Dismiss (Doc. 5) is **GRANTED** and Plaintiff's Complaint is **DISMISSED**.¹ The Clerk of Court is **DIRECTED** to **CLOSE** this case.

SO ORDERED this 23rd day of March 2021.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

¹ Because the Court has granted Defendant's motion to dismiss, Defendant's Motion to Strike Plaintiff's response (Doc. 15) is **DISMISSED AS MOOT**.